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UNITED STATES SUPREME COURT
October Term, 1985

JULIA TASHJIAN, Secretary of State of the State of Connecticut,
Defendant-Appellant,

V.

REPUBLICAN PARTY OF THE STATE OF CONNECTICUT, LOWELL P. WEICKER, JR., STEWART B. McKINNEY, NANCY L. JOHNSON and THOMAS J. D'AMORE, JR.
Plaintiffs-Appellees.

Appeal from the United States Court of Appeals for the Second Circuit

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BRIEF OF AMICI CURIAE SEEKING AFFIRMANCE

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QUESTION PRESENTED

The question to be answered by this Court is whether a political party is entitled to decide the basis on which to make its appeal to the public.

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CONSENT TO FILE BRIEF AMICI CURIAE

Both parties have consented to the filing of the annexed brief. Their letters are included below in Appendix A.

INTEREST OF THE AMICI

Amici Burns, Burrell, Crotty, Hedges and Jackson participated in the case below pursuant to an invitation from the District Court. They submitted briefs to both the District Court and the Court of Appeals, and, through counsel, took part in oral argument before the District Court.

All of the amici are specialists in the study of political parties.

James MacGregor Burns is Woodrow Wilson Professor of Political Science, Williams College. Professor Burns won the Pulitzer Prize in history in 1971.

Barbara Burrell is Visiting Lecturer

in Political Science at the College of the Holy Cross.

William Crotty is Professor of Political Science, Northwestern University. He is currently serving as the President of the Political Organizations and Parties Section of the American Political Science Association.

James S. Fay is Professor of Political Science, California State University, Hayward, Adjunct Professor of Law, University of San Francisco School of Law and Adjunct Assistant Professor of Law, Hastings College of Law.

Roman B. Hedges is Associate Professor of Political Science, Graduate School of Public Affairs, State University of New York at Albany.

John S. Jackson, III, is Dean of the College of Liberal Arts and Professor of Political Science, Southern Illinois

University at Carbondale.

Everett C. Ladd is President, Roper Center for Public Opinion Research, Director, Institute for Social Inquiry and Professor of Political Science, University of Connecticut.

Kay Lawson is Professor of Political Science, San Francisco State University and Associate Editor of the Western Political Quarterly.

Gerald M. Pomper is Professor of Political Science and Director of the Center on Political Parties, Eagleton Institute, Rutgers University.

A full description of their qualifications including their work on political parties may be found in Appendix B.

Amici include political scientists who are well known for diverse perspectives on the best form of primary

election. They wish to emphasize that in participating in this litigation as friends of the Court, they take no position on what rules the Republican Party of Connecticut ought to adopt and on that issue might well disagree among themselves.

Their different perspectives, however, all lead to the shared conclusion that political parties can best contribute to American politics if permitted to steer their own courses. They think it important that, regardless of the personal preferences of the individual amici, the Republican Party have the right to make its own decision.

The amici offer this memorandum to the Court for two reasons: first, their conviction that the overriding issue is the ability of the political parties to choose the basis on which to seek the

support of the American public; and, second, their conviction that the Connecticut statute, Sec. 9-431 Conn. Gen. Stat., interferes with that choice and interferes with the advantages which political parties may offer to the American people.

SUMMARY OF ARGUMENT

The research of American political scientists confirms several conclusions which are surely obvious to any political professional:

- the definition of party membership affects the role that party can play in government.

- both broad and narrow definitions of party membership have important roles to play in enabling the parties to make significant contributions.

- but those choices are not

fungible, they do not lead to a tweedledum-tweedledee standoff.

- instead those choices are each significant at different times and for different purposes.

Thus the parties must be free to take both choices.

An examination of the purposes of the first amendment confirms that view. It makes clear that both broadly inclusive and narrowly exclusive versions of political organizations were anticipated and protected, that the founders understood the significance of both types of political organizations and sought to encompass both rather than to choose between them. That examination of the purposes of the first amendment also makes clear that both broadly inclusive and narrowly cohesive types of political organization are central to the first

amendment objectives of control over government officials and control over policy choices.

The parties are entitled to decide for themselves.

ARGUMENT

I. FINDINGS OF POLITICAL SCIENCE INDICATE THAT THE RIGHT OF A POLITICAL PARTY TO CHOOSE ITS INTERNAL STRUCTURE FURTHERS THE PURPOSES OF THE FIRST AMENDMENT

The fundamental objectives of the freedoms of speech, press, petition, assembly and association, were to assist the people in self government and to permit the people to thwart the abuse of power by their elected and appointed leaders. Given those purposes, the findings of political science support a reading of the first amendment which would protect the right of political

parties to choose their own structure. Reading the first amendment to deny political parties the right to choose their own structure would frustrate the purposes of the first amendment.

A. THE PARTY IS THE BEST REPOSITORY FOR DECISIONS ABOUT ITS FUTURE

Political parties compete for the opportunity to govern. Elected officials belong to parties as do their challengers. Conflict of interest among the parties, and between elected bodies and political parties is inherent in a healthy political struggle. To give the party in power control over the structure of its opponents undermines the ability of the latter to make its best contribution to our political process. See, e.g., G. Jacobson, Money in Congressional Elections 163-200 (1980). That conflict of interest is certainly

inherent in the decision about who can vote in the opposing party primary. Thus making that decision by legislation rather than party rule, affords immense opportunities to thwart the attempt of the party out of power to set its own agenda and make its most useful contribution to political discussion.

B. THE IMPORTANCE OF THE PARTY'S RIGHT TO CHOOSE

Eliminating a party's choice of its own internal structure deprives it of the opportunity to shape its own political agenda and therefore to engage in the political dialogue in the most useful way. The ability to shape a political agenda is crucial to the parties' roles as collective instruments of first amendment protected speech. See J. Burns, The Power to Lead, 143-45, 235 (1984) (parties serve the public by

offering choices).

The value of a party's ability to shape its own structure and agenda would be equally offended whichever rule Connecticut required. The appropriate solution to questions of political party structure depends on contextual questions of time, place and political objective. As the succeeding sections will develope, both the structure mandated by Connecticut law and the structure desired by the Republican Party are valid and important solutions to different and difficult political questions. Freedom of choice for the parties, therefore, contributes to the political debate and electoral choice.

It is fundamental to the first amendment that there is no fixed immutable truth, no one position that parties may be expected to expound

forever. Williams v. Rhodes, 393 U.S. 23, 31-32 (1968); Republican Party of the State of Connecticut v. Tashjian, 770 F. 2d 265, 284-85 (2 Cir. 1985). As circumstances change, the parties must be free to explore the political requisites of that period. See N. Polsby, Consequences of Party Reform, 183-85 (1983). Hence any legislation which denies to parties the opportunity to make a political choice which affects the message which it can espouse to the public - its nominations and platforms and all that parties stand for - impoverishes public discourse.

1. The membership definition makes a difference.

It should be made explicit that including or excluding independents from the primary electorate does make a difference. Independent voters do not

merely duplicate the views of the party faithful. See David Adamany, Crossover Voting and the Democratic Party's Reform Rules, 70 Am. Pol. Sci. Rev. 536 (1976); Austin Ranney, Turnout and Representation in Presidential Primary Elections, 66 Am. Pol. Sci. Rev. 21, 33 Tables 8 and 9 (1972); Ronald Hedlund, Crossover Voting in a 1976 Open Presidential Primary, 41 Pub. Opinion Q 498, 502-04 (1977-78); Hedlund, Watts and Hedge, Voting in an Open Primary, 10 Am. Pol. Q. 197-218 (1982). Hence the decision affects the party's agenda - its nomination and platform.

2. Part of the debate; not just a mechanism.

Second, it should also be made explicit that parties do more than help to make the ballot manageable. Party nominations also continue to be

persuasive with a large percent of the electorate. See N. Nie, S. Verba & J. Petrocik, The Changing American Voter 47-73 (enlarged ed. 1979). On the contributions of political parties to the political debate see G. Pomper, The Contribution of Political Parties to American Democracy, in G. Pomper, Party Renewal in America, 5-10 (1980); J. Kirkpatrick, Dismantling the Parties, 5 (1978); Gottlieb, Rebuilding the Right of Association: the right to hold a convention as a test case, 11 Hofstra L. Rev. 191, 208-21 (1982).

Hence the parties are not merely voting machinery. Endorsements of parties and their predecessors have been an important part of the political debate since the founding of the Republic. See F. Dallinger, Nominations for Elective Office in the United States 1-13, 21, 26

(1897); Cunningham, The Jeffersonian Republican Party, in 1 History of United States Political Parties 239, 241-43 (A. Schlesinger, Jr. ed. 1973); J. Charles, The Origins of the American Party System 83-84 (1956); and Gottlieb, Rebuilding the Right of Association: The Right to Hold a Convention as a Test Case, 11 Hofstra L. Rev. 191, 194-95 (1982).

3. Circumstances are crucial.

Third, there is a time and place for different strategies regarding who should vote in a primary and therefore how the party's political agenda will be shaped. For the parties to play a role in vigorous political debate they must be free to define their own political agendas.

The Republican Party of the State of Connecticut is plainly basing its position on the conviction that the

independent voters in Connecticut are in the center of the political spectrum and on the desire to frame an appeal to those voters. The discussion below, describing the strategies appropriate to varying political goals, is based on those assumptions. If the distribution of political positions among Connecticut voters differed from the assumptions embodied in the Republican Party rule, the specific tools that the Republican Party would use to appeal to moderate voters would differ from those assumed below. The first amendment argument made herein would not differ, however, since the Party would still have a valid and important choice to make. Indeed it is central to the argument herein that the choice of political structures is contextual rather than immutable.

The public also has choices to make.

It is surely legitimate for the public to decide as it sometimes does that the "traditional politics" have not worked and that more programmatic or ideological candidates and policies are necessary and appropriate. The public is similarly entitled to conclude that the greater danger comes from politicians on the "extremes" and deliberately steer a more moderate course. Moreover it is entitled to decide that either choice at a given moment is more or less important than other political goals.

At present there are significant debates both in Connecticut and elsewhere about where on the political spectrum the public does or should choose to locate itself. See Jewell, Political Parties, Courts, and the Nominating Process (paper presented at the annual meeting of the Southern Political Science Association,

Nashville, TN, November 7-9, 1985).

These choices are implicated by the party primary rules in ways which the following sections seek to describe.

a. When the public needs "a choice, not an echo."

If the parties perceive a public need to make clearer ideological choices, or a public distaste for the similarity in posture that the parties sometimes take, then a closed primary may prove preferable. See V. O. Key, American State Politics, 165-96 (1956).

The Connecticut statute facilitates that type of policy choice by defining and narrowing the base of political support attracted by the parties. A more narrowly defined portion of the electorate is more able to reach agreement on policies which can in turn be stated more concretely for the

"believers". A nomination based on that kind of primary contest will tend to present a clearer picture to the general electorate than one emerging from a more broadly based primary. By clarifying positions this approach serves the process of public discussion protected by the first amendment and allows the public greater control over the policies pursued by the government, certainly one of the objects of the first amendment. See American Political Science Association, Committee on Political Parties, Toward a More Responsible Two-Party System (1951)(for the classic statement of this view).

Whether these are advantages, however, depends on one's political goals. Closed primaries can result in major swings between political extremes or a long period of one party dominance.

See William Goodman, The Party System in America, 183-228 (1980). Voters are entitled, therefore, to see the advantages of closed primaries as contextual.

b. When the public needs compromise and competition.

If what the public needs is a more competitive political system when one party has dominated the state, or a more moderate politics in the face of political extremism, then a more broadly defined primary electorate may prove more appropriate to those purposes. The right of parties to act as the advocate of that need is also central to the functions of the first amendment - allowing the people, through public discussion, to determine what best suits their interests.

The approach of the Republican Party

is better suited to those objectives by broadening the definition of the primary electorate. A broader primary electorate allows more of the public to participate in political decisionmaking, allows the parties to broaden their base, to move closer toward the center of the political spectrum and for those reasons to generate a stronger challenge to the opposing party or the party in power. See William Crotty, In Favor of the Status Quo, in Presidential Selection 15 (F. Havelick, ed., 1981).

Whether these are advantages is contextual. By offering alternatives that are within the bounds the public considers acceptable, this approach may give the public a better choice among candidates and therefore allow the public to increase its control over who holds public office. This approach, however,

may sacrifice public choice of policy since it may bring the parties closer together and positions may be more vaguely stated. Thus a broadly defined primary electorate tends to decrease the likelihood of ideological change at the same time that it is likely to make elections more competitive and the victors more centrist.

A centrist position and the organizational basis to generate it are clearly legitimate options. The purposes of the first amendment in allowing the public to discuss and coalesce around those election decisions most desired are thwarted when the parties are frustrated in their effort to advocate a centrist position in the general election campaign as a result of the primary election process.

The broader definition of the

primary electorate is important for another reason which reflects the arithmetic of primaries. Each primary reflects some proportion of the voters. Even assuming that the parties split the electorate in half and that everyone votes, winning the party primary is within the control of just over 50% of the party faithful but only 25% of the general electorate. Candidates much more acceptable to the majority of the general electorate may be unable to muster a majority in the primary of either party because of the division of their supporters among the parties, the opportunity for competing candidates to appeal to ideological extremes within both primaries, see S. Brams, The Presidential Election Game, 13-25 (1978) and the unrepresentativesness of the primary electorate, see Nelson Polsby,

Consequences of Party Reform, 159-163 (1983).

The arithmetic of the primary nomination process just described induces a certain distancing of political stands from the middle ground which presumably represents the majority of the public. The result is frequently to present the public in the general election with a choice among candidates and platforms more acceptable to minorities of the population than to the majority.

The purpose of the first amendment in fostering discussion that developes what the public most needs and desires is thus thwarted by legislation which requires a narrow definition of the primary electorate. It also produces a certain amount of duplicity because candidates chosen on the basis of the satisfaction of a portion of the

electorate must now compete for a majority of the entire electorate in the general election. The further apart the primary electorates of the two major parties the more extreme these consequences are likely to be. Conversely the more the primary electorates overlap or the more the parties are permitted to appeal to the independent voters in the primary process the less extreme these consequences will prove.

That separation toward the extremes of the political spectrum can have very good results. We do not denigrate the importance of the clarity it provides, the opportunity for a political movement to state its case to the public in clear terms. Both versions create benefits and sacrifices for the general public which in turn should be allowed to decide for

itself what kind of politics it needs.

c. Both policies have their moment.

In other words, though reality is quite complex and the implications are not always realized, in general the tendency of these two models is a classic confrontation between stability and change, between a primary system driven by cohesive minorities and one driven by broader coalitions.

In a time when the public needs "a choice, not an echo" then a narrow definition of the eligible primary voters may prove appropriate. In a time when the public needs an opportunity to pull together, to achieve a broad definition of their common ground, to accomplish common objectives or to vote out the "bad guys" then a broad definition of primary voters may prove appropriate.

That ability to discuss political

choices necessary and appropriate for the time and situation is what the electoral process and rights of speech, press, assembly and association are all about.

C. LEGISLATION INHIBITS THAT CHOICE

By means of its definition of primary voters, the State of Connecticut is in effect restricting the opportunity of the voters to achieve a more competitive two party system. The voters of Connecticut may legitimately view other objectives as more important than competitive politics or the opportunity to participate in shaping the political system through the primary. They may decide that they need and want a clearer vision of the policies than the candidates wish to pursue. And they may reward a party which bends its efforts to present that vision. But they need not. In requiring that the parties accept a

narrow definition of primaries, the State of Connecticut denies them a tool to accomplish that objective of competitive, participatory politics.

The public cannot have the benefits of this choice through legislation which requires the parties to accept one model or another.

If the objective is to form a new majority coalition, the objective of those in office is necessarily to prevent it. If the objective of the party out of power is best served by a broad definition of their own membership which permits an appeal to a majority, then the objective of the party in power must be to require a narrow definition of primary voter which emphasizes the differences between the parties and inhibits the formation of that coalition.

Conversely, if the objective is to

clarify for the public the differences between the parties so that a mandate for a given policy can be derived, the objective of those in office may be to avoid that mandate. That may be best accomplished by retaining a broad definition of the primary electorate which will find it harder to attain clarity in their nomination.

These are political questions, not in relation to the separation of powers, as the termed is often used, see Baker v. Carr, 369 U.S. 186 (1962), but in the sense in which the first amendment protects the independence of the public in making political choices.

Hence there is an important value in recognizing the right of the parties to make their own choices. They will be rewarded for offering the public that approach which will make them most

competitive. They will be penalized for any approach which costs them elections. Thus the parties have a strong incentive toward organizing themselves in the way which serves the public best.

Legislation inhibits that choice for another reason. There is no necessary reason why the objectives of the two parties must coincide. One party may think it most important to give the public a clear choice. The other may think it most important to try to develope a coalition large enough to attract a majority and govern effectively. It is appropriate for the public to choose at the polls. When the parties are pursuing different strategies, each with the objective of appealing to the electorate, restricting one of those strategies restricts the choice presented to the public.

D. THE BEST SOLUTION

Thus the best solution is to recognize the right of each party to structure itself in the way it believes it will be most useful and therefore most acceptable to the citizens of the State.

II. FIRST AMENDMENT HISTORY AND DOCTRINE CONFIRMS THE RIGHT OF POLITICAL PARTIES TO DECIDE THEIR INTERNAL STRUCTURE

The Courts below agreed that the critical issue is the right of the parties to choose the basis on which to seek the support of the American public. The Court of Appeals framed the issue as who should decide the type of primary, Republican Party of the State of Connecticut v. Tashjian, 770 F. 2d 265, 281 (2 Cir. 1985). At another point it stated flatly that the question is not which type of primary is best but whether

there is a compelling interest in regulation), id. at 284-85. See also the opinion of the District Court, 599 F. Supp. 1228, 1239-40 and see id., 1240, note 28. The sections below will elaborate why the fundamental first amendment issue is the right of choice and why the asserted governmental interests are not legitimate, let alone compelling.

A. The Judicial Trend Toward Recognizing Party Rights

The courts originally sanctioned the definition of party membership in primary laws with little understanding of the impact of those laws on the parties - indeed the courts thought that the state legislatures were doing the parties a favor in establishing primaries. See Gottlieb, Rebuilding the Right of Association: the right to hold a

convention as a test case, 11 Hofstra L. Rev. 191, 198 (1982). Recent cases have continued to justify closed primary rules on the basis of protecting party integrity. Rosario v. Rockefeller, 410 U.S. 752 (1973); Kusper v. Pontikes, 414 U.S. 51 (1973).

More recently however this Court has recognized the importance to the party of defining its own membership. In Democratic Party of the United States v. Wisconsi ex rel La Follette, 450 U.S. 107 (19 the Court held that the state could not impose an open primary on an unwilling national party. See also Rodriquez v. Popular Democratic Party, 457 U.S. 1, 14 (1982)(party "not required to include nonmembers in what can be analogized to a party primary", citing La Follette.)

La Follette thus points two ways.

On the one hand it supports the right of the party to make its own membership decision. On the other hand it underscores the preference for a narrower definition of membership.

La Follette is also somewhat ambiguous because of the fact that it balances state interests with the competing interests of a national party.

The ambiguity of the Court's prior decisions, however, should be resolved in plaintiffs' favor in light of the principles which underlie interpretation of the right of association protected by the first amendment. Thus the Massachusetts Supreme Court has concluded that the La Follette decision more properly stands for the supremacy of the right of association than for concerns with federalism. Opinion of the Justices, 385 Mass. 1201, 1207-08, 434

NE2d 960, 963-64 (1982) and see Bellotti v. Connolly, 460 U.S. 1057, 1058-61 (1983) (Stevens, dissenting). See also Cousins v. Wigoda, 419 U.S. 477 (1975); and compare Ripon Society v. National Republican Party, 525 F. 2d 567 (D.C. Cir. 1975 (en banc), cert. den. 424 U.S. 933 (1976) with Seergy v. Kings County Republican County Committee, 459 F. 2d 308 (2d Cir. 1972)(on leaving the methods and formula for selection of convention delegates to the parties).

B. Fundamental objectives of the first amendment require that parties have a choice among nominating systems.

The first amendment has always been based on the assumption that the people should be able to choose who and what to listen to from among the various arguments and proponents of arguments. See Brandeis' eloquent opinion in Whitney

v. California, 274 U.S. 357, 375 (1927)(concurring op.):

> Those who won our independence believed. . . that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth; that without free speech and assembly discussion would be futile; that with them, discussion affords ordinarily adequate protection against the dissemination of noxious doctrine. . . .

Does the reliance that the first amendment places on the people's good sense somehow fail us with respect to parties? To answer that we must look still deeper, to the purposes of the amendment.

1. The Tasks of Self-Government Require that the Parties Have a Right to Choose.

Perhaps the most basic function of the first amendment is to permit a critical review of the work of public officials and the development, when appropriate, of the popular consensus necessary to change the occupants of statehouses and legislative halls. New York Times v. Sullivan, 376 U.S. 254, 275 (1964); Mills v. Alabama, 384 U.S. 214, 219 (1966); and see New York Times v. United States, 403 U.S. 713, 717 (1971)(Black, J.). See V. Blasi, The Checking Value in First Amendment Analysis, 1977 Am. Bar Found. Res. J. 521, 523-67.

More broadly, the first amendment was and is intended to permit the public to govern itself by conducting a critical

examination of all choices of policy and personnel affected by the election process. Buckley v. Valeo, 424 U.S. 1, 14 (1976).

Any interpretation of the first amendment which restricts the ability of the people to carry on the functions of self-government and oversight strikes at the very heart of the first amendment.

a. Conflict of Interest

When elected officials with partisan ties are permitted to govern the structure of the party out of power, the lure of political self-interest threatens the purposes of the first amendment and the ability of the outparty to offer the public an alternative. See Elrod v. Burns, 427 U.S. 347 (1976); Branti v. Finkel, 445 U.S. 507 (1980).

b. The values of choice.

The tasks of self-government require

both the kind of cohesive political organization which Connecticut seeks to protect and the more inclusive political organization which the plaintiff Republican Party seeks to develope. See Republican Party v. Tashjian, 770 F. 2d 265, 284; id. at 286 (Oakes, concurring).

i. The need to be able to choose cohesive parties.

The people may need to restrict primary voting to the party faithful in order to sharpen the political debate at a time when the similarity of the two parties prevents the public from taking control at the polls. Without that control at the polls, the public cannot effectively penalize officeholders who fail to live up to their trust, or effectively exercise the right of self-government.

The first amendment framers, though

ordinarily portrayed as fearing "faction", also recognized the importance of cohesive types of political organization for the health of the body politic. See J. Madison, The Federalist No. 10. Although the men who shaped the first amendment did not discuss its terms in any detail, they recognized organizations and forms of representation which were "close to the people" as a necessary building bloc of political organization. G. Wood, The Creation of the American Republic, 1776-1787 at 319-28 (describing the power and ubiquity of popular resort to nongovernment associations which clearly were "factions" and yet which formed an honored part of the history of the rights of speech, assembly and association); id. at 189-96 (describing the importance in the eighteenth century mind of

delegates' actual representation of the felt interests of their areas). Without this closeness to the people it is impossible to account for and consider their needs and shape the larger policies required of the infant republic. 1 M. Farrand, The Records of the Federal Convention, 48-50, 56, 185 (Mason, Madison and Wilson arguing that representatives should speak the language of their constituents and mirror their views) and J. Madison, The Federalist No. 56 (on the need for a sufficient closeness to permit knowledge of each geographic area.)

ii. The need to be able to choose inclusive parties.

The people may need to open primary voting to the crucial independent voters in order to include the common interests and political preferences of a majority

of the public in a party's proposals (its platform and nominations). Without the ability to unite behind common interests their ability to exercise the right of self-government is compromised.

The need to identify common goals is inherent in the recognition of the right to assemble. U.S. Const., Amend. I. Those who wrote the Constitution spoke eloquently about the need to encourage a breadth of view in addition and to counterbalance a more parochial approach to political issues. James Madison, The Federalist No. 10. And it was quite clear that they recognized the decisive principle of majority rule, see U.S. Const., Art I, sec. 2, cls. 1 and 3; id. sec. 4; 1 M. Farrand, The Records of the Federal Convention 133, 141 (Wilson); 2 id. 487, 488, 490 (Elseworth and Franklin), preferred majority rule to

faction and sought that blending and compromising of views which the Connecticut statute makes difficult since it requires the parties to narrow their appeals to what the founders would have thought of as "factions."

The people may need to open primary voting to the crucial independent voters in order to unite in opposition to a political establishment or one party rule. Without the ability to unite in opposition, the public may be unable to check the abuses of elected officials.

To the framers, tyranny was the central fear. See Madison, The Federalist No. 47 and G. Wood, The Creation of the American Republic, 1776-1787 18-28. We tend to use milder language but the task remains. The first amendment was designed to allow the people to talk about and unite about

challenging unsuitable governors. The position of the Republican Party can serve this interest.

Thus whether the legislature chooses a limited partisan electorate or chooses a broad invitation to independents in the primary, its choice may reduce the ability of the people to control their government.

2. A Robust Marketplace of ideas Requires that the Parties Have the Right to Choose their own Nominating Systems.

In addition to self-government and oversight of the activities of public officials, this Court has also described the purpose of the first amendment as protecting an uninhibited marketplace of ideas. See Red Lion Broadcasting Co. v. F.C.C., 395 U.S. 367, 390 (1969).

Rather than encouraging a

marketplace of ideas, restriction on party organization restricts the consideration and ultimate presentation of points of view embedded in its nominations, platform and campaign. Candidates must consider the relevant electorate in designing their positions and appeals. Thus differently constructed parties are likely to call forth different arguments and positions. See Aranson and Ordeshook, Spatial Strategies for Sequential Elections, in Niemi and Weisberg, Probability Models of Collective Decision Making (1972). Moreover, as different party electorates would make different choices, the party would come to stand and argue for different political solutions to public problems. See V. O. Key, American State Politics, 165-96 (1956). Hence restricting a mechanism of party

decisionmaking results in restricting the form of political expression based on it.

3. Neutrality among Speakers and Positions Requires that Parties Have a Right to Choose.

This Court has often held that the government must not take sides with respect to speech. Clark v. Community for Creative Non Violence, 468 U.S. 288, ___, S. Ct. 3065 at 3069, 3070 (1984)(applied to demonstrators); Central Hudson Gas & Elec. Corp. v. Public Serv. Comm'n, 447 U.S. 557 (1980)(applied to corporate commercial speech); Consolidated Edison Co. v. Public Serv. Comm'n, 447 U.S. 530 (1980) (applied to inserts in utility bills). Police Dept. of the City of Chicago v. Mosely, 408 U.S. 92 (1972)(picketing of a school). In Cox v. Louisiana, 379 US 536, 557-58 (1965), after noting that "It is clearly

unconstitutional to enable a public official to determine which expressions of view will be permitted and which will not," the Court added alternatively "or to engage in invidious discrimination among persons or groups either by use of a statute providing a system of broad discretionary licensing power or, as in this case, the equivalent of such a system by selective enforcement of an extremely broad prohibitory statute." Cox illustrates the close connection between speakers and positions; ideas can be inhibited by barring designated speakers as well as by direct censorship of the positions involved.

This Court has made exceptions to the rule of neutrality in the cases where government selectively grants what the Court has termed a "privilege" and in cases involving the government's own

speech. Regan v. Taxation with Representation, 461 U.S. 540 (1983). Neither exception is applicable here. Far from extending the parties a privilege, the primary laws make a major incursion into the liberty of the parties. Nor can the presentation of the Republican Party be considered government speech. See Democratic Party of the United States v. Wisconsin ex rel La Follette, above. If it were government speech, the government would be entitled to decide what it wanted to say. The consequences of such a doctrine would, of course, collapse all campaign speech into government speech and give government the privilege of censorship of political campaigns which the first amendment denies. Thus the obligation of neutrality applies.

Yet the definition of the primary

electorate is not neutral among speakers. It announces that certain groups of people may speak with one voice while others may not despite the express wishes of the parties involved. Because the structure of political association is intimately related to its message, official choice among types of association restricts their message and thus strikes at the heart of free speech, assembly and association.

Hence none of the current approaches to interpreting the first amendment permits this kind of legislative intrusion into the rights of political parties.

C. THE FIRST AMENDMENT PROTECTS ASSOCIATIONS AS THE MECHANISM OF THIS CHOICE

The first amendment must be read to protect effective political speech. That

is plain from the founders' purposes, as discussed above, and from their choice of language. For them speech was not an exercise in self-indulgence. It was engaged in to promote the most serious forms of statecraft. See New York Times v. Sullivan, above. Similarly, the right of assembly was provided not merely to satisfy the desire of people to hang out on the public square but because it was through the organization of the public that the people could work its will on its representatives. See Gottlieb, above, 11 Hofstra at 194-96.

The scope of the right of association as a derivative of the speech, assembly and petition clauses, see N.A.A.C.P. v. Alabama, 357 U.S. 449, 460 (1958), must be understood to accomplish the objective of assisting the public in its political chores.

The tasks of identifying, organizing and promoting policy choices and the task of uniting the people behind a common program cannot be handled effectively without political parties free to assist.

It is not enough that someone speaking for himself or herself could propose a candidate or make a point similar to what the Republican Party would make if allowed. No other person or group could demonstrate the support for those decisions that a party like the Republican Party could.

President Van Buren urged programmatic parties. He urged members of both parties to support a vigorous two party system in preference to the one party or nonpartisan system he had inherited because the people had lost their voice to the nineteenth century version of what we call special

interests. He saw the need for a competing party in order to differentiate real partisans from their opponents. See James Ceaser, Presidential Selection, 126, 131-32 (1979) and Martin Van Buren, Inquiry into the Origin and Course of Political Parties in the United States, 6, 226 (1967). The cohesion that Van Buren saw as necessary to give voice to the people must take place through association.

The same is also true for majority rule. Some mechanism is necessary to enlarge and refine the public views about political questions. See Madison, The Federalist No. 10. The Convention in 1787 used the selection of senators by state legislatures, U.S. Const. Art. I, sec. 3, and the selection of the president by electors, Art II, sec. 1, as means to mediate between the important

but unrefined views of the public and the selection of public officials. When the method of selecting senators changed to popular vote by the seventeenth amendment the parties had succeeded to that role as the intermediate agency. Absent some such mechanism only special interests and a welter of individual views would remain.

In order to discern a popular majority it is necessary to have some mechanism for proposing to that potential majority what it might agree on and then determining whether it will in fact accept the proposal. The parties came into being to assist in that task. Connecticut requires the parties to do that in the primaries. Conn. Gen. Stat. 9-400. Hence, if candidates acceptable to a broad portion of the Connecticut electorate are to be placed on the ballot

it is necessary for the parties to be permitted to develope such candidates.

It makes a considerable difference whether the organization is able to communicate with its membership and its intended audience and determine a common choice or merely guess at the results. If it cannot communicate with its intended audience in order to incorporate their preferences but must nominate on the basis of some other audience, then the results of that nomination process will be skewed in the direction of the group included within the franchise. Nor is it sufficient to be able to say that so-and-so is the person most likely to be acceptable to a majority if that proposition cannot be tested. Thus the way the party is defined will prove crucial. See Brams, above, and Aranson and Ordeshook, above. If the government

of Connecticut can define the party it will be able to limit the way the party can serve the public, especially in the ways its membership believes most crucial.

Connecticut of course could permit people to enter a voting booth and enter their preference in a variety of ways. But the preference they have provided for here governs the activities not merely of election officials who must print names on a ballot but also of a political party - an organization of long standing, with traditions and loyalties, an organization with a unique place in Connecticut and indeed in every state in which it is organized, one which cannot easily and has not been replaced by some other organization as successor to those traditions and loyalties and therefore capable of doing the job that the

Republican Party can do in Connecticut. Since the State of Connecticut has in effect taken over the Republican Party in the primary it must in turn allow the Party to define who can vote in the Republican primary.

D. THE STATE DOES NOT HAVE A VALID INTEREST IN FOSTERING A PARTICULAR TYPE OF POLITICAL PARTY

In opposition to claims of a right of association the states in some cases have been able to claim a right to shape a manageable ballot. See Storer v. Brown, 415 U.S. 724, 736 (1974); Mandel v. Bradley, 432 U.S. 173, 177-78 (1977); but see Anderson v. Celebrezze, 460 U.S. 780 (1983). At issue in those cases were rules which limited the number of parties or candidates for which the ballot must be prepared.

In the instant case however there is

no such neutral or external issue. The controversy must center precisely on the nature of the associations which must, under the first amendment, be protected by the State of Connecticut.

Yet it should be clear from the foregoing that the State of Connecticut does not and can not have a legitimate interest in the type of association the state's Republicans choose to shape. See the opinions below, 770 F. 2d 265, 284 (2 Cir. 1985) and 599 F. Supp. 1228, 1239-40 (D. Conn. 1984). It is appropriate to shape the government to take account of the impact of faction on the one hand and of the need for cohesion on the other. It is not proper, however, to assert a government interest in controlling the public discussion of those same matters.

The Connecticut statute does just that by taking over the process by which

Connecticut Republicans get together and determine their preferences and then refusing to let them do so in common with the independent voters they intend to woo.

To assert such an interest is to assert that a public decision either to unite against particular officeholders on the one hand or to unite in support of given policies on the other is not legitimate and should be hindered. Yet as Madison told the House "the censorial power is in the people over the Government and not in the Government over the people." 3 Annals of Cong. 933, 934 (1794). The definition of the membership of political association is not a legitimate concern of the state.

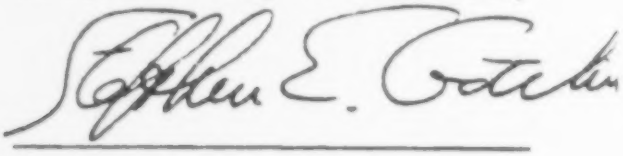
CONCLUSION

First amendment history and doctrine

confirm the findings of political scientists that freedom of speech and association are best served by protecting the right of political parties to choose their own internal structure.

The decision of the Court below should be affirmed.

Respectfully submitted,



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APPENDIX A

LETTERS OF CONSENT TO FILE BRIEF AS AMICI CURIAE

Letter of David S. Golub, Silver Golub & Sandak, counsel for plaintiffs-appellees, dated February 12, 1986.

Letter of Elliot F. Gerson, Special Assistant Attorney General, counsel for Defendant-Appellant, dated February 25, 1986.

SILVER GOLUB & SANDAK

RICHARD A. SILVER
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February 12, 1986

Stephen E. Gottlieb, Esq.
c/o Albany Law School
80 New Scotland Avenue
Albany, New York 12208

RE: Julia H. Tashjian v. Republican Party of the State of Connecticut, et al
No. 85-766

Dear Mr. Gottlieb:

The appellees in the above matter consent to your filing an amicus brief in the pending Supreme Court appeal on behalf of the group of political scientists you represent.

Very truly yours,

DAVID S. GOLUB

DSG:MGJ

JOSEPH I. LIEBERMAN
ATTORNEY GENERAL

State of Connecticut

Office of The Attorney General
30 TRINITY STREET
HARTFORD 06106

Tel: 566-4990

February 25, 1986

Professor Stephen Gottlieb
Albany Law School
80 New Scotland Avenue
Albany, NY 12208

RE: Tashjian v. Republican Party, No. 85-766

Dear Professor Gottlieb:

This letter serves to indicate the consent of appellant to your filing an amicus brief in the above-captioned case.

Very truly yours,

Elliot F. Gerson
Special Assistant Attorney General
Counsel of Record for Appellant

EFG:HSC:cc

APPENDIX B

DESCRIPTION OF THE QUALIFICATIONS AND EXPERIENCE OF THE AMICI

JAMES MacGREGOR BURNS

Woodrow Wilson Professor of Political Science, Williams College.

Education: B. A., Williams College, 1939; Ph.D., Harvard University, 1947; London School of Economics, 1949.

Writings: THE POWER TO LEAD (1984); THE VINEYARD OF LIBERTY (1982); LEADERSHIP (1978); EDWARD KENNEDY AND THE CAMELOT LEGACY (1976); UNCOMMON SENSE (1972); ROOSEVELT: THE LION AND THE FOX (1956) and ROOSEVELT: THE SOLDIER OF FREEDOM (1970); PRESIDENTIAL GOVERNMENT: THE CRUCIBLE OF LEADERSHIP (1966); THE DEADLOCK OF DEMOCRACY: FOUR-PARTY POLITICS IN AMERICA (1963); CONGRESS ON TRIAL (1949). Author also (with Jack W. Peltason and Thomas E. Cronin) of a widely used American government college text since 1951, GOVERNMENT BY THE PEOPLE, and of numerous articles and

reviews in Harpers, The Atlantic, Life, Newsweek, The New York Times Magazine and its Book Review, etc.

Political: Has served in Democratic Party since 1936. Democratic nomineee for Congress, 1st Congressional District of Massachusetts, 1958. Delegate to 1952, 1956, 1960, 1964 Democratic national conventions. Delegate to National Charter Commission of the Democratic Party, Kansas City, 1974, and to Charter Commission of the Massachusetts Democratic Party, 1979.

Military: Combat historian, Pacific Theater, 1943-46; participated in invasions of Saipan, Guam, Okinawa. Wrote military histories of same. Awarded Bronze Star Medal and four Battle Stars.

Other activities: President, American Political Science Association,

1975-76; President, The International Society of Political Psychology, 1982-83. Co-chair (with Richard B. Morris) of Project 87. Chairman, Berkshire County Commission Against Discrimination, 1950s. Faculty, Salzburg Seminar in American Studies, 1954, 1961. Active in civil liberties, civil rights, and labor groups. Has lectured widely in the United States, Europe, the Soviet Union, and India.

Awards: Pulitzer Prize, National Book Award, Tamiment Prize, Francis Parkman Prize, Woodrow Wilson Prize for Roosevelt biographies. Sarah Josepha Hale Award, 1979, for general literary work. Christopher Award (for The Vineyard of Liberty), 1983.

BARBARA BURRELL

Visiting Lecturer, College of the Holy Cross, 1985-86.

Education and Experience: University of Michigan, Ph.D. 1982. Assistant Professor of Political Science, State University of New York at Albany, 1982-85. Prior positions include Visiting Instructor in Political Science at Vassar College, Instructor in Political Science at the University of Massachusetts, Boston, and the University of Michigan; researcher, Office of Institutional Policy Research on Women's Education at Harvard and Radcliffe (1978-81).

Writings: Professor Burrell's work on local parties and on the parties in Connecticut include: Local Political Party Committees, Task Performance, Western Political Quarterly (1986); A New Cleavage in the Democratic Party?: A

Comparison of Mondale and Hart Supporters at the Connecticut State Democratic Convention, Polity (with Carlson, forthcoming). She has presented papers on local political organization at the American Political Science Association (1986, 1984), the Midwest Political Science Association (1985 with Carlson, 1984 with Hutter and Schier, 1982), the Northeastern Political Science Association (1985, 1980) and on education and career development at the American Educational Research Association/Research on Women and Education Conference (1979) and the American Educational Research Association Convention (1981 with Bailey). Her other works include Women's and Men's Campaigns for the U.S. House of Representatives, 1972-1982: A Finance Gap? American Politics Quarterly (1985); A New Dimension in Political

Participation: The Women's Political Caucus in A Portrait of Marginality (M. Githens and J. Prestage, eds., 1977), book reviews in the American Political Science Review (1985) and Citizen Participation (1985).

Political: Office Manager, Congressman Tom Harkin, 5th district, Iowa (1974-75)

Other activities: Panelist, American Political Science Association (1981); workshop facilitator for Undergraduate Women Conference, Murray Research Center, Radcliffe College (1980)

Awards: Radcliffe College Research Support Program Grant (1984); Graduate School of Public Affairs Grant, State University of New York, 1983

WILLIAM CROTTY

Professor of Political Science, Northwestern University

Writings THE PARTY GAME (1985); PARTY REFORM (1983); DECISION FOR THE DEMOCRATS (1978); POLITICAL REFORM AND THE AMERICAN EXPERIMENT (1977); PRESIDENTIAL NOMINATING PROCEDURES, (2 vols., 1974). Co-author: AMERICAN PARTIES IN DECLINE (1980; 2nd ed. 1984); THE PARTY SYMBOL (editor 1980); PATHS TO POLITICAL REFORM (editor 1980); POLITICAL PARTIES AND POLITICAL BEHAVIOR (editor 1966, 1971); ASSASSINATIONS AND THE POLITICAL ORDER (editor 1972); ASSASSINATIONS AND POLITICAL VIOLENCE (1969, 1970); A METHODOLOGICAL PRIMER FOR POLITICAL SCIENTISTS (1969); PUBLIC OPINION AND POLITICS (editor and 1970); APPROACHES TO THE STUDY OF PARTY ORGANIZATION (editor and co-author,

1968). Numerous articles in journals including Commonsense, Policy Studies Journal, American Political Science Review, Comparative Political Studies, Western Political Quarterly, chapters in a number of collaborative works, and papers delivered before professional associations including the American and Midwest Political Science Associations, American Bar Association Conference on Presidential Selection, Southwestern Social Science Meeting, Social Science and History Association. Prepared reports for projects including the Study of the U.S. Presidential Selection Process, Vanderbilt University and the Sloan Foundation, 1983.

Political: Executive Director, consultant and member of various task forces and commissions of the Democratic National Committee; member, national

board (1980-81) and task force (1972), Americans for Democratic Action.

Other activities: President, Political Organizations and Parties Section, American Political Science Association, 1983- ; Executive Committee, Committee on Party Renewal, 1981-. Guest lecturer at numerous European and American universities including appearances as a guest of the Agency for International Development and the State Department. Guest Scholar, The Brookings Institute, Summer 1983; the Woodrow Wilson International Center for Scholars, Summer 1971. Member of commissions to observe Honduran and Argentine elections and human rights sponsored by government and private agencies. Consultant, Washington Office on Latin America; International Human Rights Law Group.

JAMES SYLVESTER FAY

Professor of Political Science, California State University, Hayward. Adjunct Professor of Law, University of San Francisco School of Law. Adjunct Assistant Professor of Law, University of California - Hastings College of Law

Education: B.A., Georgetown University, 1963; M.A., Graduate Faculty of the New School for Scoial Research, 1967; Ph. D., The University of Michigan, 1973; J.D. The University of California, Hastings College of Law, 1980.

Publications: The 1986-87 California Almanac (with A. Lipow and S. Fay, 1985); 1982 Directory - California Campaign Contributors (with A. Lipow 1982); The Legal Regulation of Political Parties, Journal of Legislation, vol. 9, no. 2 (Summer 1982); Restraints on Executive Emergency Powers in the United States and

Canada, Hastings International and Comparative Law Review (Winter 1980); Election Finance Laws: The Ambivalence of Reform, in Political Reform in California: Evaluation and Perspective (T. Leatherwood and A. Lipow, eds., 1978); Sunset on California Common Cause (with Arthur Lipow), California Journal (November 1977); Missing Billions in the Defense Budget, The Nation, March 12, 1977; The Right to Privacy, The Progressive (December 1976); A Seriously Flawed Election Finance Bill, Los Angeles Times, January 22, 1976; Public Funding of Political Campaigns: Attitudes and Issues in California (with Thomas Leatherwood), Public Affairs Report, vol. 16, no. 1 (February 1975); Changing Regulations: Campaign Finance in the Golden State, Public Affairs Report, vol. 15, no. 2, University of California,

Berkeley (April 1974); State Campaign Finance Laws--The Issue of Enforcement, National Civic Review (December 1973).

Military: First Lt., Army Intelligence, 1963-65.

ROMAN B. HEDGES

Associate Professor of Political Science, Guaduate School of Public Affairs, State University of New York at Albany

Writings: Co-authored articles on the voting rights acts, reapportionment, elections and political campaigns in the Western Political Quarterly (forthcoming 1987, 1984, 1981), Polity (1980), American Journal of Political Science (1980), American Politics Quarterly (1977); contributed reviews to the Annals of the American Academy of Political and Social Science (1984, 1983, 1981, 1980); presented papers to the American, Midwest, Northeast and Southern Political Science Associations; prepared reports for the New York State Department of Environmental Conservation, the National Science Foundation under contract with

the Research Foundation of the State of New York

Political: Consultant to the Legislative Advisory Task Force on Demographic Research and Reapportionment, consultant for Democratic Assembly Campaign Committee, area candidates and local television, and former candidate

Other activities: Member of New York State Management Study Research Team; representative of the State University of New York at Albany to the Inter-University Consortium for Political and Social Research, 1974-77; manuscript review for the American Journal of Political Science, American Politics Quarterly, Political Methodology, Polity (book reviews), Publius, Western Political Quarterly, Center for the Administration of Justice, Greenwood Press, and Little, Brown and Company.

JOHN S. JACKSON, III

Dean of the Liberal Arts College and Professor of Political Science, Southern Illinois University at Carbondale

Writings: PRESIDENTIAL PRIMARIES AND NOMINATIONS (with William Crotty, 1985); numerous articles both independently and with co-authors on parties and elections in professional journals including the Midwest Journal of Political Science (1971), Journal of Politics (1973, 1977), Western Political Quarterly (1973, 1981), Urban Affairs Quarterly (1973), American Politics Quarterly (1976, 1978, 1982), Polity (1979), Legislative Studies Quarterly (1979); various publications of divisions of the American Political Science Association; and chapters in books by Paul T. David, David H. Everson, Paul R. Dommel, Thomas J. Volgy, William Crotty, Stephen L. Wasby; papers

presented and panels chaired at meetings of the American, Midwest, Southern, and Southwestern Political Sciences Associations.

Political: Delegate and member of the Rules Committee, 1980 Democratic National Convention; member of the Executive Committee and Secretary, Jackson County Democratic Party; conducted survey research for U.S. Senator Alan Dixon and U.S. Congressman Paul Simon, campaign advisory staff for various campaigns of Illinois State Senator Kenneth Buzbee and Illinois State Representative Bruce Richmond .

Other activities: Member of the Editorial Board of the Journal of Politics (1982-85), American Politics Quarterly (1981-); officer of the Southern Political Science Association (1981-81), the Midwest Political Science

Association (1980), Illinois Association of Graduate Schools (1982-83), Illinois Political Science Association (1979-80); Research Associate, Brookings Institution (1975-79) and Woodrow Wilson School of Public and International Affairs, Princeton University (1979-81); consultant, University of Arkansas Medical School (1975-78)

Awards Pi Sigma Alpha Best Paper Award for 1979 Annual Meeting of the Southwest Political Science Association; second place, 1971 Prize Paper Competition, Midwest Political Science Association.

EVERETT CARLL LADD

Director of the Institute for Social Inqury at the University of Connecticut; Executive Director and President of the Roper Center for Public Opinion Research, a private, nonprofit research facility affiliated with the University of Connecticut since 1977; Professor of Political Science, the University of Connecticut.

Publications: THE AMERICAN POLITY: THE PEOPLE AND THEIR GOVERNMENT (1985); WHERE HAVE ALL THE VOTERS GONE?: THE FRACTURING OF AMERICA'S POLITICAL PARTIES (1978, 1982); TRANSFORMATIONS OF THE MAERICAN PARTY SYSTEM: POLITICAL COALITIONS FROM THE NEW DEAL TO THE 1970's (1975, 1978); THE DIVIDED ACADEMY: PROFESSORS AND POLITICS (1975, 1976 with S. M. Lipset); POLITICAL PARTIES AND POLITICAL ISSUES: PATTERNS IN

DIFFERENTIATION SINCE THE NEW DEAL (1973 with C. D. Hadley); ADADEMICS, POLITICS AND THE 1972 ELECTION (1973 with S. M. Lipset); AMERICAN POLITICAL PARTIES: SOCIAL CHANGE AND POLITICAL RESPONSE (1970); IDEOLOGY IN AMERICA: CHANGE AND RESPONSE IN A CITY, A SUBURB, AND A SMALL TOWN (1969, 1972, 1986); NEGRO POLITICAL LEADERSHIP IN THE SOUTH (1966, 1969).

His articles have appeared regularly in such magazines as Fortune, Public Opinion, Wall Street Journal, Christian Science Monitor, Newsday, New York Times, The Nation, The Public Interest, Commonsense, and Campaigns and Elections, and in such scholarly and professional journals as The Journal of the History of Ideas, Yale Review, American Journal of Sociology, Public Opinion Quarterly, Chronicle of Higher Education, Political Science Quarterly and The Wilson

Quarterly, among others, and numerous chapters in other books. He has delivered numerous papers at the meetings of the major professional associations including the American, Southern and International Political Science Associations, among others.

Additional Professional Activities: Adjunct Scholar of the American Enterprise Institute for Public Policy Research; member of the editorial boards of seven magazines, senior Editor of Public Opinion, Editorial Advisor in the Social Sciences to W. W. Norton. In recent years he has been a Fellow of the Ford, Guggenheim and Rockefeller Foundations, the Center for International Studies at Harvard, the Hoover Institution at Stanford, and the Center for Advanced Study in the Behavioral Sciences (Palo Alto, California). He has

also lectured widely at colleges and universities in the United States including West Point, Wisconsin, UCLA, Harvard and Yale, among many others.

KAY LAWSON

Professor of Political Science, San Francisco State University. Visiting Professor of Political Science, Columbia and Rutgers universities, Spring 1982

Publications: WHEN PARTIES FAIL: EMERGING ALTERNATIVE ORGANIZATIONS (co-edited with Peter Merkl, forthcoming); THE HUMAN POLITY: AN INTRODUCTION TO POLITICAL SCIENCE (1984); NEW DIRECTIONS FOR U.S. POLITICAL PARTIES (Public Affairs Report of the Institute of Governmental Studies, University of California, Berkeley, 1983); POLITICAL PARTIES AND LINKAGE: A COMPARATIVE PERSPECTIVE (editor, 1980); THE COMPARATIVE STUDY OF POLITICAL PARTIES (1976); POLITICAL PARTIES AND DEMOCRACY IN THE UNITED STATES (1968); articles and chapters in French Politics and Society (forthcoming 1986); J. of Law and

Politics (Fall 1985); CALIFORNIA POLICY CHOICES (J. Kirlin, ed., 1985); Comparative State Politics (1984); West European Politics (Summer 1983); CONSTITUTIONAL DEMOCRACY: ESSAYS IN COMPARATIVE POLITICS (F. Eidlin, ed., 1983); Newsday, October 10, 1982); Comparative Politics (July 1981); PARTY REFORM IN AMERICA: THEORY AND PRACTICE (G. Pomper, ed., 1980); THE DEVELOPMENT OF POLITICAL PARTIES (L. Maisel and J. Cooper, 1978); Journal of African Studies (Spring 1976); AMERICAN GOVERNMENT AND POLITICS (W. Moore, et al eds., 1971). Book reviews in the American Political Science Review, Journal of Politics, Annals of American Academy of Political and Social Science, Canadian Journal of Political Science, Perspective, among others. Presented papers to professional associations including the International

Studies Association, Southwestern Political Science Association, American Political Science Association, International Political Science Association, Chinese Society of Comparative Law; colloquia at Columbia, Yale, Rutgers, Princeton, Tufts and Harvard Universities and the University of Massachusetts; addresses given at Oxford University, the Fondation Nationale des Sciences Politiques, Paris, UCLA School of Law among other universities in addition to various presentations to community organizations, and over radio and television stations.

Other Activies: Associate Editor, Western Political Quarterly; served on various committees of the American Political Science Association; the Executive Council of the Western Political Science Association and the

Comparative Interdisciplinary Studies Section of the Intrnational Studies Association; Executive Board, African Studies Association; co-organizer of the Internet on International Comparative Analysis, International Studies Association

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Publications: AMERICAN GOVERNMENT: THE POLITICS OF FRAGMENTATION (with Baker and McWilliams, 1983, 2nd ed. forthcoming); THE CHANGING POLITICS OF STATE MANAGEMENT (with Moakley, forthcoming); VOTERS' CHOICE: VARIETIES OF AMERICAN ELECTORAL BEHAVIOR (1975); ELECTIONS IN AMERICA: CONTROL AND INFLUENCE IN DEMOCRATIC POLITICS (with Lederman, 1968, 1980); AMERICAN PARTY POLITICS: ESSAYS AND READINGS (with Herzberg, 1966); NOMINATING THE PRESIDENT: THE POLITICS OF CONVENTION CHOICE (1963, rev. ed. 1966). Editor and Contributor of THE POLITICAL STATE OF NEW JERSEY (forthcoming); THE ELECTION OF

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CERTIFICATE OF SERVICE

Stephen E. Gottlieb, hereby certifies that on April 22, 1986, he mailed three copies of this amicus brief including all attachments and appendices to each party separately represented by mailing three copies each to David Golub, Silver Golub & Sandak, Post Office Box 389, Stamford, CT 06904, counsel of record for the plaintiffs-appellees, and three copies to Elliot F. Gerson, Special Assistant Attorney General, Office of the Attorney General, 30 Trinity Street, Hartford, CT 06106, counsel of record for defendant-appellant, first-class postage thereon fully prepaid.

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